MONTANA LEGISLATIVE HISTORY

Chapter 12 1969 Ex. L.

Bill H 19 S _____ Original bill & history ____C

| H. Committee on Ways & Means | | | S. Committee on Taxation | | |
|---|---|---|---|---|---|
| Hearing Date(s) | Mar 19 | ✓ C | Hearing Date(s) | Mar 18 | ✓ C |
| | _____ | ____C | | _____ | ____C |
| | _____ | ____C | | _____ | ____C |
| | _____ | ____C | | _____ | ____C |
| Date Out | _____ | ____C | | | |

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Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

March 17, 1969

WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Goan at 5:35 p.m. Roll call showed all members present.

The Chairman announced the first item for consideration was Extraordinary Session House Bill 10 pertaining to increasing the electrical energy producers' license tax. Rep. Fasbender moved Extraordinary Session House Bill No. 10 be reported out of committee DO PASS. Carried unanimously.

The next bill to come before the committee was Extraordinary Session House Bill No. 11 which is an act to increase the fee payable to the Board of Railroad Commissioners by motor carriers holding a certificate of public convenience; amending Section 8-127, and repealing Section 8-128 which section concerns disposition of fees by the Railroad Commission and which has been superseded. Rep. Watt made a motion that Extraordinary Session House Bill No. 11 DO PASS. Carried unanimously.

Rep. Romney moved Extraordinary Session House Bill No. 12, which increases the telephone company license tax, be reported out of committee DO PASS. Carried.

The next bill to be considered was Extraordinary Session House Bill No. 13 which increases the natural gas distributors' license tax. Rep. Kosena moved Extraordinary Session House Bill No. 13 DO PASS. Carried unanimously.

Rep. Romney moved Extraordinary Session House Bill No. 14, which increases the metalliferous mines license tax, be reported out of committee DO PASS. Carried unanimously.

The next bill to come before the committee was Extraordinary Session House Bill No. 16 which increases the corporation license tax from 5½ percent to 6¼ percent. Rep. Fasbender moved Extraordinary Session House Bill No. 16 be reported out of committee DO PASS. Carried unanimously.

Rep. Cranston moved Extraordinary Session House Bill No. 19, which is an act providing for the imposition of a tax on the sale of all tabacco products, not including cigarettes, be reported out of committee DO NOT PASS. Rep. Romney then made a substitute motion that Extraordinary Session House Bill No. 19 be reported out of committee DO PASS. A vote on the substitute motion was taken by a show of hands which resulted in eleven members voting aye and five voting no.

Chairman Goan then asked Vice Chairman Himsl to preside.

The next bill to be considered was Extraordinary Session House Bill No. 15 which is an act to amend Section 84-4902 relating to the rate of income tax; and providing for a surcharge; and changing and adding income tax brackets and rates of income tax for all taxable years commencing on or after December 31, 1968; and to provide for monthly payments to the State Board of Equalization of amounts withheld from payments to nonresidents and if the amount withheld is $50 or more in each quarterly period of any year, applying changes when payments are due to payment periods beginning after June 30, 1969; and providing an effective date.

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Senator Turnage moved that the amendments to EXTRAORDINARY SESSION HOUSE BILL NO. 13 be adopted. Senator Gilfeather seconded. MOTION CARRIED. Senator Turnage moved that EXTRAORDINARY SESSION HOUSE BILL #13 BE CONCURRED IN AS AMENDED. Seconded by Senator Gilfeather. MOTION CARRIED.

Senator Gilfeather moved that the amendments to EXTRAORDINARY SESSION HOUSE BILL NO. 14 BE ADOPTED. Senator Lyon seconded. MOTION CARRIED. Senator Turnage then made a motion that EXTRAORDINARY SESSION HOUSE BILL NO. 14 BE CONCURRED IN AS AMENDED. Seconded by Senator Broeder. MOTION CARRIED.

Senator Turnage moved that HOUSE BILL NO. 19 BE CONCURRED IN. Senator Lyon seconded. MOTION CARRIED.

Senator Anderson moved that HOUSE BILL NO. 15 BE CONCURRED IN. Senator Reber seconded. MOTION CARRIED.

Senator Reber moved that the amendments to HOUSE BILL NO. 16 BE ADOPTED. Senator McGowan seconded. MOTION CARRIED. Senator McGowan moved that EXTRAORDINARY SESSION HOUSE BILL NO. 16 AS AMENDED BE CONCURRED IN. Senator Reber seconded. MOTION CARRIED.

There being no further business, the meeting was adjourned.

Anderson

SENATOR NEES, Chairman

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*cent (5 1/2%) of all net income for the taxable period.* Every corporation subject to taxation under this act shall, in any event, pay a minimum tax of not less than *fifty dollars ($50).*

Exemptions.

There shall not be taxed under this title any income received by any—

(a). Labor, agricultural or horticultural organization;

(b). Fraternal beneficiary, society, order or association operating under the lodge system or for the exclusive benefit of the members of fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident or other benefits to the members of such society, order or association or their dependents;

(c). Cemetery company owned and operated exclusively for the benefit of its members;

(d). Corporation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;

(e). Business league, chamber of commerce, or board of trade, not organized for profit, and no part of the net income of which inures to the benefit of any private stockholder or individual;

(f). Civic league or organization not organized for profit, but operated exclusively for the promotion of social welfare;

(g). Club organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, no part of the net income of which inures to the benefit of any private stockholder or members;

(h). Farmers' or other mutual hail, cyclone, or fire insurance company, mutual ditch or irrigation company, mutual or co-operative telephone company, or like organization of a purely local character, the income of which consists solely of assessments, dues and fees collected from members for the sole purpose of meeting its expenses;

(i). Any co-operative association or corporation engaged in the business of operating a rural electrification





system or systems for the transmission or distribution of electrical energy on a co-operative basis;

(j). Corporations or associations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title;

(k). In determining the license fee to be paid under this act, there shall not be included any earnings derived from any public utility managed or operated by any subdivision of the state, or from the exercise of any governmental function."

Minimum fee.

Section 2. Notwithstanding the provisions of this act, corporations electing and qualifying under section 84-1501.2 shall pay a minimum fee of ten dollars ($10).

Effective immediately.

Section 3. This act is effective upon its passage and approval.

Approved: March 19, 1969.

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## CHAPTER 12

An Act Providing for the Imposition of a Tax on the Sale of All Tobacco Products, Not Including Cigarettes.

*Be it enacted by the Legislative Assembly of the State of Montana:*

Section 1. **Definitions.** As used in this act, the following definitions shall apply unless the context otherwise requires:

"Board."

(1) The word "board" shall mean the state board of equalization of the state of Montana.

"Person."

(2) The word "person" shall mean any individual, firm, fiduciary, partnership, corporation, trust, organization or association, however formed.

"Cigarettes."

(3) The word "cigarettes" shall mean any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient,

the wrapper or cover of which is made of paper or any other substance or material except tobacco.

"Sale." (4) The words "sale" or "sell" shall mean and include any transfer for a consideration, exchange, barter, gift, offer for sale and distribution, in any manner, or by any means whatever of tobacco products, other than cigarettes.

"Wholesaler." (5) The word "wholesaler" shall mean any person who purchases tobacco products, other than cigarettes, directly from the manufacturer, or who purchases tobacco products, other than cigarettes, from any other person who purchases from the manufacturer, and who acquires such products for the purpose of bona fide sales to retail dealers, or who services retail outlets by the maintenance of an established place of business for the purchase of tobacco products, other than cigarettes, including, but not limited to, the maintenance of warehousing facilities for the storage and distribution of tobacco products. The word "retailer" shall mean any person other than a wholesaler who is engaged in the business of selling tobacco products to the ultimate consumer.

"Wholesale price." (6) The words "wholesale price" shall mean the established price for which a manufacturer sells a tobacco product, other than cigarettes, to a wholesaler or unclassified acquirer before any discount or other reduction.

Presumption of direct taxes on retail consumer. Section 2. (1) All taxes paid pursuant to the provisions of this section shall be exclusively presumed to be direct taxes on the retail consumer, precollected for the purpose of convenience and facility only. When the tax is paid by any other person such payment shall be considered as an advance payment and shall be added to the price of tobacco products, other than cigarettes, and recovered from the ultimate consumer or user. Any person selling tobacco products, other than cigarettes, at retail shall state or separately display in the premises where such products are sold, a notice of the tax included in the selling price and charged or payable pursuant to this section. The provisions of this section shall in no way affect the method of collection of such tax as hereinafter provided.

(2) There is hereby levied, imposed and assessed, and





there shall be collected and paid to the state of Montana, upon tobacco products, other than cigarettes, sold or possessed in this state, a tax of twelve and one-half percent (12½%) of the wholesale price of such products to the wholesaler, excepting therefrom such said products as may be shipped from Montana and destined for retail sale and consumption outside the state of Montana.

Precollected tax. Section 3. The tax imposed shall be precollected and paid by the wholesaler to the board prior to the sale of tobacco products, other than cigarettes, to the purchaser from the wholesaler.

Violation—penalty. Section 4. Any wholesaler who shall sell any tobacco products, other than cigarettes, without first making payment of the tax provided for by this act in the manner and at the time specified shall be guilty of a misdemeanor, and further shall be enjoined by an action pursued in the district court of the county of Lewis and Clark, Montana from making further sale of tobacco products, other than cigarettes, for a period not less than one (1) month nor more than one (1) year.

Same. Section 5. It shall be unlaful for any person, individual, firm or corporation to sell or offer to sell any tobacco products subject to this tax without the tax having been prepaid as provided for in this act. Violation of this section shall constitute a misdemeanor punishable by a fine of not more than five hundred dollars ($500) or imprisonment for not more than six (6) months.

Collection allowance. Section 6. The taxes specified in this act that are paid by the wholesaler, shall be paid to the board in full less a five percent (5% defrayment for his collection and administrative expense and shall be deposited by the board in the long-range building sinking fund number 338766. Refunds of the tax paid shall be made as provided in section 84-726, R.C.M. 1947, in cases where the tobacco products purchased become unsaleable.

Rules and regulations. Section 7. The board is authorized to adopt rules for the effective collection and refund of the tax imposed by this act.

Approved: March 19, 1969.